

LAND USE COMMITTEE – MEETING MINUTES

May 6, 2015

Committee Members Present

Wayne Benjamin, Chair
Anita Barberis, Asst. Chair
Osi Kaminier
Steve Simon
Arlene Schulman

Committee Members Absent

Isaiah Bing

Board Members Present

Andrea Kornbluth
Barbara Frazier
Fe Florimon

Public Member

Public Member Absent

Vivian Ducat

Staff: Ebenezer Smith

Guests: Arelis Tavares, Robert Evans, Shalini Abeyaraine, Ana Liriano, William Danderlario, Suhail Perez, Diane Christian, Zeke Vanderhoek, Jordan Gianos, Denise Munoz, Martin Collins, Angel Guillermo, Ana M Sui, Erika Santos, Rita Gorman, Les Shelton, Victoria Whelan, Barbara Clark, Adory Santes, Lorelaine Suazo, Bob Clark, Sus Ana Ramirez, He, G.-TEP Parent, Joseph Menchuca, Pat Courtney, Eva Okada, S. Fisher, Richard Lobel-Lobel Associates, David Thom, M. Granger, Jean-Claude Cantave, Maura Hernandez, Rose Quezada, Josefina Gonzalez, Diane Jorge, Solanly Mercedes, Luz Lora, Esther Rosa, Casey Asal - TEP Charter School, Mirbia Poconai, Vickiana Ramirez, Fausto E. Jimenez.

1. The meeting of the Land Use Committee (“Land Use” or the “Committee”) was called to order at 7:05 PM. Land Use Chair Wayne Benjamin welcomed guests and asked Committee members to introduce themselves. The Chair stated that there was miscommunication with the Department of City Planning (“DCP”) concerning its presentation to the Committee on the Housing New York: Zoning for Quality and Affordability initiative. DCP will make this presentation to the Committee at its June meeting, not at tonight’s meeting. The Chair then made brief comments on the application (the “Application”) submitted to the Board of Standards and Appeals (“BSA”) requesting a zoning variance to facilitate the construction of a new middle school building for The Equity Project (“TEP”) Charter School, the role of BSA in considering requests for zoning variances and special permits and of community boards in offering their opinions and recommendations to BSA. He then yielded the floor to the representative of Sheldon Lobel PC, legal counsel which prepared and submitted the Application.
2. Richard Lobel of Sheldon Lobel PC, Victoria Whelan of CA Rich Environmental and Robert Evans and Arelis Tavares of Evans Heintges Architects discussed the Application and presented the design for the new middle school building. Mr. Lobel began the presentation by stating that BSA applies more lenient standards when reviewing applications submitted by schools and churches, which can rely on their programmatic needs when requesting a zoning variance and do not have to fully comply with the five findings (unique physical conditions, because of the physical conditions development in compliance with zoning will not bring a reasonable return, the variance if granted will not alter neighborhood character, the site’s difficulties and hardships were not caused by the owner/applicant and the variance granted is the minimum relief needed) that applicants for BSA actions must satisfy. He stated that TEP is currently housed in deteriorating temporary trailers located on the campus of George Washington High School which are inadequate for the school’s programmatic needs and therefore TEP has undertaken a project to build a new school at 153-157 Sherman Avenue, a few blocks away from its current location.

Mr. Lobel stated that the bulk of the proposed building is permitted as-of-right under zoning, noting that zoning allows a floor-area-ratio or FAR of 6.5 and that the FAR of the proposed building is 4.9. He further stated that site conditions include the presence of rock and fill, there is a high water-table and water-proofing the basement would increase construction cost by \$3,000,000. Given these site conditions the depth of excavations will be limited to four feet. As a result the street-wall of the new

building is 3 feet 6 inches higher than permitted by zoning (63.5 feet vs. 60 feet) and the set-back required once the street-wall reaches its maximum height is 5 feet that less than required by zoning (10 feet vs. 15 feet). He additionally stated that despite the requested waivers, the building does not break the zoning sky-exposure plane, which is intended to ensure light at street level.

Chair Benjamin noted that the site, in addition to being subject to the BSA application is also subject to an application under the NYC Office of Environmental Remediation (“OER”) Voluntary Cleanup Program (“VCP”). He inquired about the scope of the environmental issues and how they impact the construction of the proposed building. Ms. Whelan stated (and confirmed via email in more detail subsequent to the meeting) that after TEP acquitted the site in 2010 it conducted routine environmental due diligence, including a historical survey of prior site owners and Phase I and Phase II environmental assessments. It determined that prior uses of the site included a dry cleaner and dyeing facility and that these uses contributed to low levels of soil contamination, which is typical for many developed sites in the five boroughs. Ms. Whelan advised that although there is no State or City requirement for sites with low levels of soil contamination to participate in the VCP, TEP elected to participate because the site is to be developed as a school. She stated that the site remediation will include, among other actions, the proper removal and disposal of the contaminated soil, installing a two-foot thick basement slab at a depth of four-feet below grade to seal the site and building a vent pipe into the slab that extends above the roof to exhaust any soil vapors that may accumulate over time. She further stated that the public comment period on the VCP application began on May 4th and concludes on June 4th; Chair Benjamin noted that copies of the Fact Sheet for the VCP application were provided to the Committee and also forwarded to the Health and Environment Committee for more detailed review and comment.

The meeting continued with the design presentation. Mr. Evans began his comments by providing an overview of the location of the site, a 50 foot wide vacant lot on Sherman Avenue, between Academy Street and West 204th Street and noting that the site has an odd and unstable soil profile, with rock close to the surface at the rear of the site and fill and a high-water table towards the front, and that these conditions, not the soil contamination, are the factors that limit the depth of excavation to four feet and necessitate a thick basement slab. Mr. Evans continued by presenting architectural floor plans for the building, a six-story approximately 60,000 square foot structure, and discussing how the school’s program is distributed throughout the building. He noted that, unlike typical new schools built by the School Construction Authority, the new school for TEP will include a full-size gymnasium, a cafeteria, an on-site kitchen, music rooms that can be combined to create a performance space, dedicated science classrooms, a garden terrace and a roof-top play area. The design of the building complies with the American with Disabilities Act (ADA).

At the conclusion of the design presentation the Committee asked several follow up questions including who TEP serves, how the project will be financed, who will build the new school and what efforts will be made to ensure local hiring and the participation of minority- and women-owned businesses. Zeke Vanderhoek, TEP’s principal addressed these questions.

Mr. Vanderhoek stated that 99% of TEP’s students come from School District #6, which includes Inwood, Washington Heights and West Harlem, and 1% is from the “At-Risk” category, generally residing in the Bronx. He stated that the school serves 480 students in the fifth through eighth grades and stresses academics, athletics and the arts, and that, the new building is designed to accommodate this philosophy. He also stated that TEP currently has 13 sports teams, but without a field most of their games are on the road. Its arts programs include a robust music program, dance and visual arts clubs. The average class size is 30 to 31 students. The gym and music rooms in the new building will be available for community use during non-school hours. Mr. Vanderhoek further stated having an on-site kitchen will generate five new jobs, local hiring will be a priority for these jobs, a contractor has not

been selected but Fazio Construction has been working with the team to value-engineer the design and may likely be selected to build the project. Mr. Lobel stated that it was too early to discuss construction hiring; Chair Benjamin stated that there will be opportunities in the future for TEP to discuss this and other matters with the Youth and Education Committee or the Business Development Committee. Mr. Vanderhoek also stated that TEP wants to expand to include elementary school grades, but this is just in the planning stages and if it moves forward will not be at this site.

The Committee was informed that the project's total development cost is \$37 million and that the project will be privately financed. Sources of financing include \$10 million in equity raised by TEP Charter School Assistance ("TEP CSA"), a non-profit affiliate of TEP created to undertake the building project that will also own the building upon completion of construction, a \$15, million bank loan and \$12 million in New Market Tax Credits. TEP CSA retained the West Side Federation for Senior and Supportive Housing, Inc. to serve as the developer for the project.

Parents of TEP students voiced their support for TEP and urged the Committee and Community Board 12-Manhattan to do whatever they can to ensure that BSA gives its approval of the zoning variance. One parent stated that he grew up in the community and has two children in TEP who will not get to enjoy the new building but that he supports it because it is for the future. He also praised the commitment of students, faculty and staff. Another parent praised TEP's commitment to safety highlighting the efforts staff takes to ensure that each morning students safely enter and that each afternoon they safely depart the school; she asked how the parents could play a role in supporting TEP's application to BSA.

The Committee also inquired about the design of the project's facades (not yet finalized but will likely be some type of panel system), green initiatives (no green roof but there will be roof-top tanks to retain rain water to lessen demand on the sewer system, the project's construction schedule (18 to 24 months) and the anticipated ground breaking date (fall 2015).

After further discussion a motion was made (S. Simon) and seconded (O. Kaminier) supporting the BSA application requesting a zoning variance to facilitate the construction of a new middle school building for TEP, noting that the requested variances are de minimis and have no significant impact on the character of the neighborhood, with the understanding that the site will undergo proper environmental cleanup as required by OER, and that the design of the project's facades will be architecturally sensitive to the neighborhood context. The resolutions were passed based upon the following votes.

	<u>For</u>	<u>Against</u>	<u>Abstaining</u>	<u>Not Voting</u>
Committee Members	5	0	0	
Board Members	2	0	0	1
Members of the Public	30	0	0	

- Committee Member Osi Kaminier raised the matter of the professional soccer stadium that was reported in a news article to be under consideration for Columbia University's Baker Field. Community residents David Thom, Martin Collins and others also stated concerns about the stadium, the city-wide zoning initiative, the Broadway zoning initiative and the renewed efforts to study rezoning and development options in the Sherman Creek-area. Residents questioned if a professional stadium was permitted by zoning, if it was permissible for a community facility building to be leased to for-profit entities for events at which admission is charged, if zoning is impacted if the owner of a community facility building leases or otherwise allows the use of one of its facilities by for-profit entities and also cited the noise, traffic and infrastructure impacts that a professional stadium would have on the community. A resident also questioned if the stadium was part of a plan to rezone the community, increasing its density and decreasing the quality of life. Chair Benjamin stated that the DCP and the Manhattan Borough

President's Office have already been contacted to explore the zoning issues and that he will endeavor to have their comments available for the June Land Use meeting. He also stated that at the April Committee meeting it was reported that the Broadway rezoning initiative presented by the Housing Partnership is not moving forward, in its place DCP is taking the lead on an upper Broadway rezoning, the study area for which is from West 155th Street to Dyckman Street, and that DCP has not yet provided CB12M with a schedule for the study. Chair Benjamin further stated that while the Committee inquired about the status of renewed activity at and around the Sherman Creek area in late-summer 2014, to date it has not been provided with any information.

4. After further discussion the meeting was adjourned at 9:15 PM

Respectfully submitted by Wayne A. Benjamin